**MDL 1570 PLAINTIFFS' EXECUTIVE COMMITTEE**

In re: Terrorist Attacks on September 11, 2001 (S.D.N.Y.)

Plaintiffs' Executive Committee for Personal Injury and Death Claims	Plaintiffs' Executive Committee for Commercial Claims
Ronald L. Motley (1944-2013) Jodi Westbrook Flowers / Donald A. Migliori, <i>Co-Chairs</i> MOTLEY RICE LLC James P. Kreindler, <i>Co-Chair</i> KREINDLER & KREINDLER LLP	Stephen A. Cozen, <i>Co-Chair</i> Sean Carter, <i>Co-Chair</i> COZEN O'CONNOR
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VIA ECF

January 31, 2019

The Honorable Sarah Netburn, U.S. Magistrate Judge
 United States District Court for the S.D.N.Y.
 Thurgood Marshall U.S. Courthouse, Room 430
 40 Foley Square
 New York, NY 10007

Re: *In Re: Terrorist Attacks on September 11, 2001*, 03 MDL 1570 (GBD) (SN)

Dear Judge Netburn:

The Plaintiffs' Executive Committees (PECs), with the consent of the Defendants' Executive Committee (DEC), counsel for the Kingdom of Saudi Arabia, counsel for Dallah Avco, and the Department of Justice (DOJ), submit the following status report in accordance with the Court's Order of January 17, 2019 (ECF No. 4367).

The Court's previous Order of January 7, 2019 (ECF No. 4339), directed the PECs, the DOJ, the DEC, and counsel for the Kingdom of Saudi Arabia and for Dallah Avco to confer regarding the effect on this multidistrict litigation of the then-ongoing lapse in appropriations for DOJ and other relevant agencies and provide the Court with a report. The parties and the DOJ conferred on January 9, 2018, and provided the Court with a joint status report on January 11, 2018 (ECF No. 4346). In an Order dated January 17, 2019 (ECF No. 4367), the Court adopted the parties' proposals¹ and directed the parties to confer further and provide the Court with a follow-up report on January 31, 2019. The parties further conferred on January 30, 2019, after the DOJ advised that the lapse in appropriations, which DOJ reported lasted 35 days, had concluded. This report is a result of those conferences.

Assistant United States Attorney Sarah Normand, on behalf of the DOJ, advised that key government personnel who were reviewing classified or confidential documents were on furlough for much or all of the lapse in appropriations. Although those government personnel have returned to work, a backlog of other tasks for which they are simultaneously responsible may enhance delays in

¹ The Court stayed any aspects of the litigation that require a response from a federal agency, including, among other things, the responses of the FBI and other federal agencies to the PECs' subpoenas, and depositions that invoke the *Touhy* process or otherwise implicate protected FBI materials.

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document reviews for the litigation. Accordingly, Ms. Normand advised that the FBI's third tranche production is now anticipated to be produced by March 15. The FBI further plans to process a fourth tranche of documents and possibly more, after March 15, but the dates for those productions have not been identified.

Regarding the subpoenas served on the CIA and Treasury Department by the PECs, conversations with the DOJ had to be deferred during the shutdown. The PECs hope to make a formal proposal to the DOJ on that front in the next two weeks.

Ms. Normand further advised that the State Department has a smaller volume of non-consular material that it is processing with the goal of producing by the end of February. With regard to a separate group of consular materials that are deemed confidential pursuant to 8 U.S.C. § 1202(f), after discussions were stayed during the lapse in appropriations, the PECs and the DOJ are meeting and conferring regarding the PECs' anticipated application to the Court.

Finally, the DOJ also confirmed that it is now available to receive and respond to *Touhy* requests and proposed redactions of materials filed under seal during the shutdown.

Respectfully submitted,

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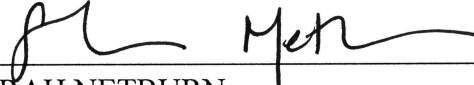
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On January 17, 2019, the Court stayed any aspects of the litigation that require a response from a federal agency, including the Department of Justice, during the government shutdown. ECF No. 4367. Because appropriations have been restored, the stay in this matter is lifted. *See* H.J. Res. No. 28, Further Additional Continuing Appropriations Act, 2019 WL 336894 (White House, Jan. 25, 2019). To the extent appropriations to the Department of Justice lapse, the parties may make a request for appropriate relief at that time.

SO ORDERED.

February 7, 2019
New York, New York



SARAH NETBURN
United States Magistrate Judge